



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC CNR FF MT OLC

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter. This hearing dealt with an application for:

- a notice to end tenancy for unpaid rent pursuant to section 46 of the *Act*;
- a notice to end tenancy for cause pursuant to section 47 of the *Act*;
- more time to cancel a notice to end tenancy pursuant to section 66 of the *Act*;
- an order directing the landlord to comply with the *Act* pursuant to section 62; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Both of the applicants, A.A. and S.A., and the respondent R.M. appeared at the hearing.

### Preliminary Issue – Jurisdiction

At the outset of this hearing, I explained to the parties that I had concerns centering on my jurisdiction to hear this matter.

Following some preliminary information regarding the nature of the property, the respondent explained that issues concerning the ownership of the property were currently being discussed by the parties' lawyers. At the hearing, both parties acknowledged that both the applicants and the respondent, A.A. and S.A. have an ownership stake in the property currently in dispute.

The nature of the dispute before me concerned an allegation of unpaid rent on behalf of the applicants. The respondent provided evidence to the hearing as part of his evidentiary package that the home was purchased by both parties with an agreement in place whereby the applicants would pay 'rent' to the respondent. The respondent now alleges that 'rent' has been unpaid.

Section 2(1) of the *Residential Tenancy Act* explains, "This Act applies to tenancy agreements, rental units and other residential property." A tenancy agreement is defined in section 1 of the *Act*, as, "An agreement, whether written or oral, express or implied,

**between a landlord and a tenant** respecting possession of a rental unit, use of common areas and services and facilities.”

Evidence submitted to the hearing by A.A. and S.A. in the form of a Land Title document, shows that both A.A. and R.M. have an ownership stake in the property. At the hearing, R.M. acknowledged that A.A. had an ownership stake in the property. Furthermore, the respondent, R.M.'s submissions note, “The home was purchased by both parties.”

A landlord is defined in section 1 of the *Act* as, “the owner of the rental unit.” As **both parties currently have an ownership stake**, there is no landlord/tenant relationship and I have no jurisdiction to consider this matter. A tenancy agreement is only formed when a landlord and a tenant as defined by the *Act* enter into an agreement.

The applicants must bear the cost of their own filing fee, as the *Act* does not apply and I therefore have no authority or recourse under the *Act* to return the filing fee.

### Conclusion

I decline to rule on this matter as I have no jurisdiction to consider this application

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 23, 2017

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Residential Tenancy Branch